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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,700	11/12/2003	Edward D. Riley	16432-0042PI	8582
24267	7590	05/12/2006		EXAMINER
CESARI AND MCKENNA, LLP				CHORBaji, MONZER R
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BOSTON, MA 02210			ART UNIT	PAPER NUMBER
			1744	

DATE MAILED: 05/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/706,700	RILEY, EDWARD D.
	<b>Examiner</b> MONZER R. CHORBAJI	<b>Art Unit</b> 1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 12 November 2003.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-21 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-21 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 12 November 2003 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/4/04&amp;1/27/05</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

**This general action is in response to the application filing date of 11/12/2003**

### ***Claim Objections***

1. Claims 1 and 18 are objected to because of the following informalities: In claim 1, line1, please insert colon after "comprising". The same applies to claim 18. Appropriate correction is required.

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "first keying and second keying surfaces" in claims 14-16 and 19-21 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
3. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New

Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

**4.** The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**5.** Claims 1-6 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Yee et al (U.S.P.N. 5,108,287).

With respect to 1, the Yee reference discloses a dental tray assembly (figure 2:12 and 10) that includes the following: a unitary base (figure 2:10), a plurality of tubes having open lower and upper ends (figure 4:unlabeled tubes), first web (figure 2:14, 16, 18 and 20) with a periphery connecting and supporting the tubes, instrument supports at the lower ends of the plurality of tubes (unlabeled bottoms of tubes in figure 4 are capable of supporting dental instruments) and a unitary cover for the base (figure 2:-12).

With respect to claims 2-6 and 8, the Yee reference teaches the following: the upper ends of the first passages are flared (unlabeled flared upper ends of the passages in figure 4), base and cover include interfitting latching surfaces (figures 2 and 5 where surface 14 of the base and unlabeled opposite surface of the cover interfit and col.3, lines 3-23), fist web (figure 2:14, 16, 18 and 20) includes a top wall (figure 2:14) of the base (figure 2:10) and includes a peripheral web extending down from the first web

around the plurality of tubes (figure 2:16 and unlabeled opposite side walls of the base 10), peripheral web includes a side wall of the base (figure 2:18), first web includes a top web (figure 2:14), one or more receptacles in the tray wall (figure 2:22) and bridges at the lower ends of the tubes that partially occlude the lower ends of the tubes (unlabeled bottom curving surfaces of the unlabeled tubes in figure 5).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yee et al (U.S.P.N. 5,108,287) as applied to claim 5 and further in view of Rose (U.S.P.N. 6,328,565).

The Yee reference fails to teach placing indicia on the top wall for indicating the contents of the base; however, the Rose reference teaches placing indicia on holder (see figure 2). Therefore, it would have been obvious to one having ordinary skill in the

art at the time the invention was made to place indicia on the tray of the Yee device so that persons can readily learn and/or become accustomed to the bur characteristics so that bur identification in the future is made easier (Rose reference, see abstract).

9. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yee et al (U.S.P.N. 5,108,287) as applied to claim 1 and further in view of Kazen et al (U.S.P.N. 4,253,830).

The Yee reference fails to teach placing interior flanges at the lower ends of the tubes; however, the Kazen reference teaches in figure 4 where unlabeled flanges in the lower region of receptacle 28 holds bur FG. Clearly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the lower region of the tubes in the tray of the Yee device so that different types of bur devices can be supported and sterilized in Yee's tray assembly.

10. Claims 10-13 and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yee et al (U.S.P.N. 5,108,287) as applied to claim 1 and further in view of Friedman (U.S.P.N. 3,248,167).

With respect to claim 18, the Yee reference discloses a dental tray assembly (figure 2:12 and 10) that includes the following: a unitary base (figure 2:10), top wall (figure 2:14), a plurality of tubes extending downward from top wall having open lower and upper ends (figure 4:unlabeled tubes), a periphery wall extending downward from the top wall (figure 2:16 and 18) and instrument supports at the lower ends of the plurality of tubes (unlabeled bottoms of tubes in figure 4 are capable of supporting dental instrument). Furthermore, the Yee reference teaches a cover for the base (figure

2:12) that includes the following: a top wall (unlabeled top wall of 12 in figure 2), a sleeve extending down from the top wall of the cover in parallel spaced-apart relation (unlabeled inner walls of 36 and 38 in figure 5), sleeve defining second passage (unlabeled space contained between 36 and 38 of figure 5) that is open at the bottom (unlabeled open bottom of unlabeled space in figure 5) and the top (figure 5:44), lower end of the sleeve has substantially the same cross-section as the upper end of the first passages (unlabeled space contained between 36 and 38 and unlabeled tube in figure 5) and a peripheral wall extending down from the top wall of the cover so as to surround the sleeve (figure 5:36 and 38). The Yee reference fails to teach the use of more than one sleeve; however, the Friedman reference teaches the use of a plurality of sleeves (figure 2:14 and 16). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the one large passage in the cover of Yee's assembly with individualized sleeves as taught by the Friedman reference so that different sized burs do not damage each other during handlings or also during sterilization cycles.

With respect to claims 10 and 12, the Yee reference teaches a cover for the base (figure 2:12) that includes the following: a top wall (unlabeled top wall of 12 in figure 2), a sleeve extending down from the top wall of the cover in parallel spaced-apart relation (unlabeled inner walls of 36 and 38 in figure 5), sleeve defining second passage (unlabeled space contained between 36 and 38 of figure 5) that is open at the bottom (unlabeled open bottom of unlabeled space in figure 5) and the top (figure 5:44), lower end of the sleeve has substantially the same cross-section as the upper end of the first

passages (unlabeled space contained between 36 and 38 and unlabeled tube in figure 5), a peripheral wall extending down from the top wall of the cover so as to surround the sleeve (figure 5:36 and 38), a second web (unlabeled lower ends of 38 and 36 in figure 5 that interfit with the top surface of the base) having a periphery and connecting the sleeve (unlabeled inner walls of 36 and 38 in figure 5) and the upper ends of the second passage is smaller than the lower end of the second passage (unlabeled distance of the upper end and the lower end of the unlabeled space in figure 5 between 36 and 38).

The Yee reference fails to teach the use of more than one sleeve; however, the Friedman reference teaches the use of a plurality of sleeves (figure 2:14 and 16). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the one large passage in the cover of Yee's assembly with individualized sleeves as taught by the Friedman reference so that different sized burs do not damage each other during handlings or also during sterilization cycles.

With respect to claims 11 and 13, the Yee reference teaches that the second passage is longer than the first passage (unlabeled space contained between 36 and 38 of figure 5 and unlabeled first passage from the left side in figure 4) and that the cross-section of the second passage is larger than the first passage (cross section of the unlabeled space contained between 36 and 38 of figure 5 and cross section of the unlabeled first passage from the left side in figure 4). The Yee reference fails to teach the use of more than one sleeve; however, the Friedman reference teaches the use of a plurality of sleeves (figure 2:14 and 16). Therefore, it would have been obvious to one

having ordinary skill in the art at the time the invention was made to substitute the one large passage in the cover of Yee's assembly with individualized sleeves as taught by the Friedman reference so that different sized burs do not damage each other during handlings or also during sterilization cycles.

With respect to claim 17, the sidewall of the base (figure 2:10 and 16) of the tray assembly of the Yee reference has a lower edge (figure 2:20) spaced below the lower ends of the tubes (unlabeled bottom portions of tubes in figure 4).

11. Claims 14-16 and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yee et al (U.S.P.N. 5,108,287) as applied to claim 1 and further in view of Friedman (U.S.P.N. 3,248,167) as applied to claims 10 and 18 and further in view of Brewer (U.S.P.N. 4,959,199).

With respect to claims 14-16 and 19-21, the Yee reference discloses a dental tray assembly (figure 2:12 and 10) that includes the following: a first web (figure 2:14, 16, 18 and 20) having a top wall (figure 2:14) of the base (figure 2:10), the base includes a side wall extending down from the top wall of the base (figure 2:16), second web (unlabeled web that constitute the cover 12 in figure 2) having a top wall (unlabeled surface of the cover that interfit with the top surface of the base) of the cover (unlabeled top wall of 12 in figure 2), the cover includes a side wall extending down from the top wall of the cover (unlabeled cover of legs 30 in figure 2). However, regarding claims 14-16 and 19-21, both the Yee reference and Friedman reference fail to teach the use of first keying and second keying surfaces. The Brewer reference teaches dental cassettes with various first and second keying surfaces (unlabeled first and second keying

surfaces in figure 1 or 56 and unlabeled second keying surfaces in figure 13) distributed around the peripheries of both the top and bottom portions of the containers. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add first and second keying surfaces to the dental tray assembly of the Yee reference so that accidental opening of the assembly tray during handling is prevented upon inclusion of this additional closing mechanism.

***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Domaas (U.S.P.N. 5,071,346) reference, the Genis (U.S.P.N. 4,050,894) reference, the Weinberger (U.S.P.N. 2,775,005) reference, the Knox (U.S.P.N. 4,306,862) reference, the Wagner (U.S.P.N. 3,583,556) reference, the Miller et al (U.S.P.N. 5,435,979) reference and the Schainholz (U.S.P.N. 4,135,868) reference all teach tray assembly having top and bottom with structures for anchoring dental or medical instruments.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MONZER R. CHORBAJI whose telephone number is (571) 272-1271. The examiner can normally be reached on M-F 9:00-5:30.

14. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, GLADYS J. CORCORAN can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

15. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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